



# Kingsburg Planning Commission

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Chairperson  
THOMAS HENSLEE

Vice Chairperson  
ROBERT JOHNSON

Commission Members  
DR. PAUL KRUPER  
DR. JASON ROUNTREE  
JEREMY KINNEY  
JASON POYNOR  
TROY COZBEY

Planning & Development  
Director  
GREGORY COLLINS

Secretary  
MARY COLBY

## AGENDA

### KINGSBURG PLANNING COMMISSION

JANUARY 12, 2017

600 P.M.

### KINGSBURG CITY COUNCIL CHAMBER

1401 DRAPER STREET

1. Call to order - Reminder for all Commissioners and Staff to speak clearly and loudly into the microphones to ensure that a quality recording is made of tonight's meeting. We ask that all those attending this meeting please turn off pagers and wireless phones.

## NEXT RESOLUTION 2017-01

2. **APPROVAL** of the November 10, 2016 minutes as mailed or corrected.
3. **PUBLIC COMMENTS** - Any person may directly address the Commission at this time on any item on the agenda, or on any item that is within the subject matter jurisdiction of the Commission. A maximum of five minutes is allowed for each speaker.
4. **PLANNING COMMISSION DISCUSSION REGARDING ADJUSTMENT OF SETBACKS FOR UTILITY STRUCTURES WITHIN A RESIDENTIAL REAR YARD.** – Staff report prepared by Gregory Collins Planning Consultant
  - A. Presentation by Planning Consultant Gregory Collins
  - B. Commission Discussion
  - C. Recommendation to Staff/City Council
5. **FUTURE ITEMS**
6. **ADJOURN**

**KINGSBURG PLANNING COMMISSION  
REGULAR MEETING  
NOVEMBER 10, 2016**

**CALL TO ORDER** – At 6:03PM the Planning commission meeting was called to order.

**COMMISSIONERS PRESENT** – Kinney, Rountree, Poynor, Cozeby and Henslee

**COMMISSIONERS ABSENT** – Johnson and Kruper

**STAFF PRESENT** – Planning Consultant Holly Owen and Planning Secretary Mary Colby

**OTHERS PRESENT** - None

**APPROVAL** – Commissioner Rountree made a motion, seconded by Commissioner Cozbey to approve the minutes of the September 8, 2016 meeting as mailed. The motion carried by unanimous vote of those commissioners present.

**PUBLIC COMMENTS** – There were no citizens present who wished to comment at this time.

**PUBLIC HEARING - FOR A ZONING ORDINANCE TEXT AMENDMENT, AN ADDITION OF CHAPTER 17.94 TO SECTION 17 OF THE KINGSBURG MUNICIPAL CODE, WIRELESS TELECOMMUNICATION FACILITIES**

The Public Hearing was opened at 6:05 P.M.

Planning Director Holly Owen stated that this Ordinance will fill a need covering wireless telecommunication facilities that want to place equipment in public rights of way. This ordinance will have to be updated from time to time as technology progresses.

Ms. Owen presented a power point presentation showing some examples of how these towers look over time.

Commission Discussion – Commissioner Cozbey asked about a provision for removal?

Open for Public Comment – 6:27 closed 6:27 no comments

Continued Commission Discussion

No further comments and the Public Hearing was closed at 6:28PM

Commissioner Cozbey made a motion, seconded by Commissioner Rountree to approve the zoning ordinance text amendment adding chapter 17.94 to section 17 of the Kingsburg Municipal Code regarding wireless telecommunication facilities and approve resolution 2016-08. The motion carried by unanimous vote of those Commissioners present.

**FUTURE ITEMS**

Planning Director Owen announced to the Commission that she is leaving Kingsburg to move to Solvang and is taking the Planning and Economic Director position there. Greg Collins will take over for Kingsburg.

Annexation items and subdivision maps will be coming to the PC in the next quarter.

**KINGSBURG PLANNING COMMISSION  
REGULAR MEETING  
NOVEMBER 10, 2016**

Commissioner Rountree asked about a pedestrian pathway in the Lennar subdivision.

Progress of Grace Church, has the permit been issued? The permit has been issued and grading has begun.

**ADJOURN** – At 6:41 the Planning Commission meeting was adjourned.

Submitted by

Mary Colby  
Planning Secretary



Meeting Date: 1/12/17  
Agenda Item:

## **PLANNING COMMISSION MEETING STAFF REPORT**

**REPORT TO:** Planning Commission

**REPORT FROM:** City Planner, Greg Collins

**REVIEWED BY:**

**AGENDA ITEM:** Discussion on Accessory Structures

**ACTION REQUESTED:** ☐ Ordinance ☐ Resolution ☐ Motion ☒ Receive/File

### **EXECUTIVE SUMMARY**

Staff is seeking direction from the Planning Commission pertaining to accessory structures. Specifically, what is an appropriate setback (side and rear) for an accessory structure, should the height and size of the structure be regulated, and finally, what is the appropriate process by which an accessory should be processed?

Accessory structures (their height and location) are regulated by Kingsburg Zoning Ordinance. Generally, the Building Inspector reviews the size and location of accessory structures assuming they pull a building permit. The current language regulating accessory structures in Kingsburg's residential districts reads as follows:

**Rear Yards.** The minimum rear yard shall be 10 feet, subject to the following conditions and exceptions:

Accessory structures less than seven feet in height may be located in any portion of a required rear yard, provided that any mechanical equipment shall be located a minimum of five feet from a rear property line adjoining an interior lot in an UR, RA, R or RM district.

**Side Yards.** The minimum side yard shall be five feet, subject to the following conditions and exceptions:

Accessory and garden structures under seven feet in height may be located in any portion of a required side yard, subject to approval under the provisions of [Chapter 17.64](#), except in the street side yard of a corner lot, and provided that any mechanical equipment shall be located a minimum of five feet from a side property line adjoining an interior lot in the UR, RA, or RM district.

The Uniform Building Code also regulates accessory structures. Accessory structures do not require a building permit unless they are larger than 120 square feet and they do not contain any type of plumbing or electrical improvements.

The issue in Kingsburg has been that some folks have purchased pre-manufactured accessory structures (Tuff Sheds) that are larger than 120 square feet and did not secure a building permit, or they have purchased an accessory structure that has a height greater than 7 feet but have stationed it within a side or rear yard setback area of their lot. An accessory structure that is higher than 7 feet and sits within a side or rear yard

setback area may have an adverse aesthetic impact of the adjacent neighbor. Unfortunately, there are a number of accessory structures throughout Kingsburg that are located within the aforementioned rear or side yard setbacks. In order to ensure that these structures are not classified as "existing non-conforming structures" it has been suggested that increasing the permitted height of structures to 10.5 feet would place these structures in the "existing, conforming structure" category.

**RECOMMENDED ACTION BY PLANNING COMMISSION**

For review and direction from the Planning Commission.

**POLICY ALTERNATIVE(S)**

NA

**FINANCIAL INFORMATION**

**FISCAL IMPACT:**

- |                              |          |
|------------------------------|----------|
| 1. Is There A Fiscal Impact? | Possible |
| 2. Is it Currently Budgeted? | No       |
| 3. If Budgeted, Which Line?  | NA       |

**PRIOR ACTION/REVIEW**

NA

**BACKGROUND**

Accessory structures provide opportunities for small-scale aesthetic and shade structures; functional, protected, and enclosed ancillary storage and activity space; and additional guest housing, among other benefits. As subordinate facilities to a principal structure, however, appropriate regulation is required in order to ensure compatibility of land uses, protect privacy of neighbors, ensure minimum open space and area requirements, and protect the health, safety, and welfare of the neighborhood and community.

Kingsburg wishes to recognize accessory structures as desirable and beneficial accessory uses, and to provide for such uses under certain circumstances so long as land use compatibility is maintained, privacy of neighbors is protected, minimum open space and area requirements are maintained, and public health, safety, and welfare is preserved.

For purposes of this discussion, garages and carports shall not be considered to be accessory structures. Accessory structures are discussed in the Property Development Standards sections of the RA, R and RM chapters of the Kingsburg Zoning Ordinance. Staff's review of these sections of the Zoning Ordinance shows that existing language could be clearer and more comprehensive. To initiate the

discussion on this matter staff is recommending the following additions to the Kingsburg Zoning Ordinance.

- A. Accessory structure review shall be conducted by the City Planner or Building Inspector. For purposes of this Ordinance, garages and carports shall not be considered accessory structures.
- B. All accessory structures shall comply with the requirements of the Uniform Building Code as adopted by the City of Kingsburg.
- C. An accessory structure in any district may only be constructed on a lot containing a principal structure.
- D. The maximum height for an accessory structure shall not be greater than 12 feet.
- E. Minimum setbacks for an accessory structure should be:
  - 1. Front yard - same as principal structure
  - 2. Rear yard - 10 feet. If the accessory structure is ~~seven~~ 10.5 feet or less in height and contains no electrical, plumbing or mechanical improvements, the rear yard setback may be reduced to 0 feet.
  - 3. Interior side - 5 feet. If the accessory structure is ~~seven~~ 10.5 feet or less in height and contains no electrical, plumbing or mechanical improvements, the side yard setback may be reduced to 0 feet.
  - 4. Street side - same as principal structure
- F. The size of a non-habitable accessory structure shall not exceed 25 percent of the gross square footage of the primary structure (including any attached facilities such as a garage).
- G. Accessory structures shall individually be located a minimum of 10 feet from the principal structure and any other accessory structure.
- H. Except for guesthouses and second dwelling units, accessory structures shall not be used for dwelling purposes.
- I. A non-habitable accessory structure (small shed) less than or equal to 120 square feet in size and intended for storage purposes only may be located within the required rear yard or interior side yard but not in the front yard. The maximum shed height shall be ~~7~~ 10.5 feet.
- J. Shipping containers shall not be permitted in any single family or duplex residential district within the City of Kingsburg.
- K. Portable carports shall not be permitted in the front or street-side, side yards.

Finally, should the City have a process whereby a minor deviation could be approved by the City Planner or Building Inspector for a building (primary or accessory structure) that sits too close to a property line? Typically, a deviation from the city's setback standards occurs in the field when a new building being constructed happens to be too close to the property line. For example, sometimes a foundation has been

constructed too close to a property line, or the property owner has used the wrong property line when the foundation was set. In either case, the building inspector has discretion to tell the builder to tear out the foundation (and move the building) or consider a minor deviation, a procedure that Kingsburg does not currently possess. Cities that have adopted a minor deviation process allow a deviation of 10 to 20 percent from the setback standard, subject to certain findings by the City Planner or Building Inspector.

Staff has attached an example (see Exhibit A) of a chapter from the City of Exeter Zoning Ordinance that outlines the minor deviation process.

## *Exhibit A*

### **Minor Deviation Example**

#### **Sections**

<b>17.52.01</b>	<b>Purpose</b>
<b>17.52.02</b>	<b>Applicability</b>
<b>17.52.03</b>	<b>Application and Fee</b>
<b>17.52.04</b>	<b>Report and Findings</b>
<b>17.52.05</b>	<b>Action of the Planning Director</b>
<b>17.52.06</b>	<b>Conditions</b>

#### **17.52.01 Purpose**

The purpose of this chapter is to provide a mechanism whereby the Planning Director can grant minor deviations from district regulations. A minor deviation may be granted up to 10 percent of the district regulations and up to 20 percent for setback distances. Any minor deviation that exceeds the deviation percentage explained above shall be processed as a variance consistent with the regulations detailed in Chapter 17.50 Variances.

Minor deviations shall only be granted when practical difficulties, unnecessary hardships and conditions inconsistent with the purpose and objectives of this Ordinance may result from the strict application of certain provisions of this Ordinance. The granting of a minor deviation and its associated conditions shall not constitute a special privilege inconsistent with the limitations on other properties in vicinity and in other like districts in Exeter.

#### **17.52.02 Applicability**

The Planning Director may grant a minor deviation from district regulations, including setbacks, lot dimensions, height of structures and fences, walls and hedges, lot coverage, parking standards and sign regulations.

#### **17.52.03 Application and Fee**

An application for a minor deviation shall be made to the Planning Department on a form prescribed by the Department. A fee set by resolution of the City Council shall accompany the application.

#### **17.52.04 Report and Findings**

The City Director shall prepare a report on the minor deviation application and shall review the following findings with regard to a minor deviation.

- A. There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, and unclear property lines, where the strict application of this Ordinance deprives such property right possessed by other property in the same vicinity or other properties that have the same district classification;
- B. That granting a minor deviation is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity or other properties that have the



same district classification;

- C. That granting the minor deviation will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and district in which the property is located; and
- D. That granting the minor deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the property is located.

#### **17.52.05 Action of the Planning Director**

The Planning Director may process minor deviations as an administrative matter. Following a review of a minor deviation application and the findings listed above, the Planning Director may take action on the minor deviation. The Planning Director can approve, approve with conditions or deny the minor deviation based on the findings listed above. Following a decision by the Planning Director, an administrative agreement, consistent with Chapter 17.63 Administrative Agreements, shall be prepared that outlines the findings and conditions of the decision. The Planning Commission will be notified of all minor deviations granted by the Planning Director.

The Director's decision shall be final unless appealed to the Planning Commission consistent with the requirements contained in Chapter 17.06 Appeals. Within 10 days of approving the minor deviation, the Director shall transmit a copy of the administrative agreement to the person that filed the minor deviation application.

#### **17.52.06 Conditions**

The Director can approve a minor deviation subject to conditions. Conditions will assure that the approved minor deviations shall not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and district in which such property is situated.

## Chapter 17.64 - USES PERMITTED BY ADMINISTRATIVE APPROVAL

### Sections:

#### 17.64.010 - Purposes and application.

The purpose of requiring administrative approval of certain enumerated uses is to determine whether or not, in any particular case, a use listed under a section of district regulations entitled "Permitted Uses: Administrative Approval" should be treated as a conditional use because of the peculiar circumstances and conditions of the case. This chapter sets forth the procedure for approval of such use by an administrative act where findings can be made that such use is in conformance with the intent and provisions of the district regulations and other applicable regulations of the ordinance codified in this title. The provisions of this chapter take cognizance of the impracticality of listing certain uses as categorically possessing the characteristics of those uses listed under either the permitted use or conditional uses—commission approval sections of the various districts provided in the ordinance codified in this title.

Except as provided in Sections 17.64.050 and 17.64.070 of this chapter, the provisions of Sections 17.64.010 through 17.64.060 shall apply to all uses listed as permitted uses, subject to administrative approval.

As a matter of policy, any use listed as subject to administrative approval shall be considered as if it were a permitted use in the district where listed unless otherwise found to require modifications under the review procedures provided in this chapter.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.020 - Procedure.

- A. An application for administrative approval shall be submitted to the planning department on a form prescribed by the department. The application shall include a statement of the use proposed and a site plan prepared in accordance with Chapter 17.68.
- B. The planning director shall review the proposed use to ascertain all facts pertinent thereto, and in writing, shall state either approval or approval with conditions of the proposed use, together with his/her findings and reasons for such decision within fifteen (15) working days of the filing of the application.
- C. In approving the use, the director shall impose such conditions and requirements as may be applicable as listed under Sections 17.68.080 and 17.72.060.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.030 - Findings.

The director may grant an application for administrative approval as the permit was applied for or in modified form, if, on the basis of the application and evidence submitted, the director is able to make the findings prescribed under Section 17.68.070, plus the following additional findings:

- A. That the use will not involve any process, equipment or materials which, in the opinion of the director, will be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare or unsightliness or to involve any hazard of fire or explosion.
- B. That the proposed use will be harmonious with existing structures and use of land in the vicinity.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.040 - Notice of decision.

One copy of the written decision of the director shall be signed and dated by the director and mailed to the applicant.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.050 - Appeals.

- A. In the event the applicant is not satisfied with any condition or conditions of approval imposed by the director, the applicant may submit an application to the planning commission for a conditional use permit in the manner prescribed in Chapter 17.68. In submitting an application for a conditional use permit, only that information and data required under Chapter 17.68 need be submitted which is required in addition to that previously submitted as part of the application for administrative approval.
- B. Except as provided in Subsection C, of this section, in the event the application for administrative approval is disapproved by the director, the application, upon written appeal from the applicant within ten (10) days following the notice of the decision date pursuant to the provisions in Section 17.64.040 this chapter, shall automatically become an application for conditional use permit and shall be processed in the manner prescribed in Chapter 17.68. The applicant shall submit such additional information and data required by the provisions of Chapter 17.68 as not previously submitted with his/her application for administrative approval, within five days following the filing of an appeal.
- C. Appeals filed in the event of director disapproval of an application for a mobilehome on a permanent foundation shall be processed as provided under Subsections D., E., and F. of this subsection.
- D. Within ten (10) days following the date of a decision by the director, the decision may be appealed in writing to the planning commission by the applicant or any interested party. An appeal shall be filed with the planning department, and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the director, or wherein the decision is not supported by the evidence in the record.
- E. The director shall give notice in writing to the applicant and to the appellant (if the applicant is not the appellant) of the time when the appeal will be considered by the commission.
- F. The commission shall hear the appeal at its next regular meeting to be held not less than fourteen (14) days after the filing of the appeal. The commission may affirm, modify or reverse a decision of the director, provided that if the decision is modified or reversed, the commission shall, on the basis of the record and such additional evidence as may be submitted, make the determination required under Section 17.68.070 of this title.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.060 - Revocation.

Upon violation of any applicable provisions of this title, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a use permit shall be suspended automatically. Notice of such suspension shall be sent immediately to the person or persons responsible for non-compliance by the building official. Within thirty (30) days of the suspension, the city council shall consider the suspension. If not satisfied that the regulation, general provision, condition or conditions are being complied with, the city council may revoke the use permit or take such action as may be necessary to ensure compliance with the regulation, general provision, condition or conditions.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

#### 17.64.070 - Building permit.

Before a building permit shall be issued for any building or structure proposed as part of an approved application for administrative approval, the building official shall determine that the proposed building location, facilities and improvements are in conformity with the site plan and conditions as approved.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)

17.64.080 - Review of utility towers and lines.

- A. Application. The provisions of this title shall not be construed as to limit or interfere with the construction, installation, operation and maintenance of any use coming under the jurisdiction of the public utilities commission, which uses are related to the public utility purposes of water and gas pipes, mains and conduits, telegraph and telephone lines, pole mounted repeaters, telephone booths, sewers and sewer mains, electric light and power distribution and transmission lines, except as provided in Subsection B. of this section.
- B. Procedure.
  - 1. The routes of proposed gas or electric transmission lines shall be submitted to the planning department for review and recommendations. The department shall confine its review to the route, placement and height of such towers or lines and the effect on land use. Power transmission lines shall be those lines which are intended to transmit gas or electric energy from the source of such energy to a receiving substation, or from a receiving substation to a distribution substation.
  - 2. Prior to the acquisition of rights-of-way, the following plans and information shall be submitted to the director for review and recommendations:
    - a. The location of the proposed route.
    - b. Type of towers and transmission lines.
    - c. Approximate height of towers or size of lines.
    - d. Widths of rights-of-ways.
    - e. Other pertinent data.
  - 3. The director may, when in the public interest, recommend such modifications as deemed necessary to protect the health, safety and welfare.
  - 4. The director shall complete the review and make findings within sixty (60) days after the filing of said plans and data.
- C. Appeals. The recommendations of the director may be appealed to the planning commission within ten (10) days of the completion of the review and findings. The appeal shall be placed on the agenda of the commission's next regular meeting. The commission shall review the findings and recommendations and shall act to uphold, modify or disapprove the recommendations of the director.
- D. Effect of Regulations. These regulations are intended to provide constructive advice by the city to a public utility engaged in the routing of electrical or gas transmission lines through the city, thereby assisting in the selection of those transmission line routes which will best meet the needs of the public health, safety and general welfare.

(Ord. 92-11 § 1 (part), 1992: Ord. 408 (part), 1982)